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August 31, 2016

Glenn Blackmon
State Energy Office
1011 Plum Street SE
Olympia, WA, 98504

RE: Request for comments on WAC 194-37-070.

Dear Mr. Mr. Blackmon,

Utility Consulting appreciates the opportunity to comment on possible revisions to WAC 194-37-070. Prior to forming Utility Consulting, I worked in the utility industry for over 37 years including participation in the original rulemaking for WAC 194-37 and my utility's initial Ten Year potential assessment and Biennial Target setting. I was a member of the Regional Technical Forum from 2002 through 2012.

First, as stated in your Purpose of the Rulemaking Inquiry, *"The EIA requires that utility conservation plans use methodologies consistent with the Northwest Power and Conservation Council's regional power plan"*¹.

However, in WAC 194-37-070(2), the requirement for a utility's biennial target to be one-fifth of the ten year potential (*"The utility's biennial target shall be no less than its pro rata share of the ten year potential identified pursuant to subsection (1) of this section"*²) is NOT consistent with Council methodology as it does not reflect the 'ramp rates' embedded in the Council's regional conservation potential assessment.

The differing implementation time requirements ('ramp rates') for various conservation measures has been included in the 'methodology' of all Regional Power Plans (the 5th, 6th and now the 7th) since passage of the Energy Independence Act. The Sixth Plan specifically addressed the fact that the WAC 194-37-070(2) requirement is not consistent with the Council's methodology³:

*"The Council uses its ramp rate assumptions, along with other information and the results of its regional portfolio model, to establish five-year cumulative conservation targets for the region. **The end result is that achievable conservation potential under the Council's planning assumptions will not be evenly available across each year in the period.** I-937 separately instructs the utilities to identify not just cost-effective potential over the 10-year life of the utility's conservation plan for I-937, but also to identify and meet biennial conservation acquisition targets that must be "no lower than the qualifying utility's pro rata share for that two-year period of its cost-effective potential for the subsequent 10-year period." **Having to acquire 20 percent of any 10-year target in any two-year period under I-937 may produce different two-year targets than would result using ramp rates consistent with the Council's methodology.**" (Emphasis added)*

A Council presentation to the Resource Strategy Advisory Committee⁴, indicates a 7th Plan regional ten year energy efficiency potential of 3,100 aMW (Slide 2). Under the provisions of WAC 194-37-070(2), this would require a first biennium target of 620 aMW. Yet the Council's own "Biennial Milestones" (Slide 3) show a first biennium target of 370 aMW, lower by 250 aMW than Commerce's current rules would require of a Washington utility target. In fact, the Council's biennial milestones do not approach the WAC 194-37-070(2)

¹ <http://www.commerce.wa.gov/about-us/rulemaking/i-937-rulemaking/>

² <http://apps.leg.wa.gov/WAC/default.aspx?cite=194-37-070> Section(2)

³ https://www.nwcouncil.org/media/6365/SixthPowerPlan_Ch4.pdf 6th Power Plan, Chapter 4: Conservation Supply Assumptions - Implications for the State of Washington's I-937 Requirements, Pages 4-22 & 4-23

⁴ http://www.nwcouncil.org/media/7149532/rsac_draftactionplan_resource-strategy_090915.pdf RSAC Meeting 9/9/15, agenda item for 2:45 PM, PowerPoint presentation entitled "7th Plan's Resource Strategy Action Items"

level until the third biennium (570 aMW) – at which point the Eighth Plan will have been adopted – and do not exceed it until the fourth biennium (660 aMW).

In order for the WAC to be internally consistent with the EIA requirement for utilities to be consistent with Council methodologies when establishing their biennial target, the second sentence of WAC 194-37-070(2) – *“The utility’s biennial target shall be no less than its pro rata share of the ten year potential identified pursuant to subsection (1) of this section”* – should be deleted.

Second, the issue of adding language to section -070(5) to specifically include retrofit and lost opportunity measures as part of the summary of Council methodology should be unnecessary. As with ramp rates, retrofit and lost opportunity measures have been part of each Plan since the adoption of the EIA. The 17 utilities subject to the EIA have now filed four biennial plans each and been audited on the results of their plans at least three times each with no audit findings that these items were overlooked in a utility’s potential.

In addition, the NW Power & Conservation Council’s own comments⁵ identify numerous areas in this section of the WAC (a 15 step supposed ‘summary’ of Council methodology⁶) which are once again not consistent with actual Council methodology. The 7th Plan references to the implications of the EIA state:

*“The Council’s conservation planning methodology is described in this chapter (Chapter 12) and in Appendix G.”*⁷ (Chapter number added)

Since Chapter 12 consists of 56 pages and Appendix G contains 59 pages, rather than continually modify the rules in an effort to condense a subset of selected items from over 100 pages of detailed description into a summary of less than a full page, it would make more sense to eliminate the entire summary and refer utilities to the actual relevant current Council Power Plan chapters and/or appendices in their entirety.

In summary, two of the sections of the current WAC 194-37-070 are not consistent with Council methodology as articulated in any recent version of a regional Power Plan and as the implementation rules utilities are to follow should be modified to meet the same standard.

Again, thank you for the opportunity to comment.

Jay Himlie

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⁵ <http://www.commerce.wa.gov/wp-content/uploads/2016/08/Energy-NWPCC-WAC-194-37-0705-vs-7P-methodology.pdf> Department of Commerce Energy Independence Act (I-937) Rulemaking page

⁶ <http://apps.leg.wa.gov/WAC/default.aspx?cite=194-37-070> Section (5)(a) through (o)

⁷ https://www.nwcouncil.org/media/7149926/7thplanfinal_chap12_conservationres.pdf 7th Power Plan, Chapter 4: Conservation Resources, Page 12-55